

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GARY EDGAR,

Plaintiff,

ORDER

v.

09-cv-0264-bbc

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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This is a proposed civil action brought by petitioner Gary Edgar to challenge a decision by the Commissioner of Social Security. Petitioner has requested leave to proceed under the *in forma pauperis* statute, 28 U.S.C. §1915. To determine whether a petitioner qualifies for indigent status, the court uses the following calculation: From petitioner's annual gross income, the court subtracts \$3400 for each dependent, excluding the petitioner. If the balance is less than \$15,000, the petitioner may proceed without any prepayment of fees and costs; if the balance is greater than \$15,000 but less than \$28,000, the petitioner must prepay half the fees and costs. Substantial assets or debts require individual consideration. From petitioner's affidavit of indigency, I find that he has no income and no dependents. He lives with his elderly mother and depends on her for support. Therefore, petitioner qualifies financially to proceed without prepaying the fees and costs of filing his action.

The next step is determining whether petitioner's proposed action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages from a respondent who is immune from such relief. 28 U.S.C. § 1915(e)(2). In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. *Haines v. Kerner*, 404 U.S. 519, 521 (1972).

Petitioner's complaint reads in its entirety as follows:

I believe that I have been unjustly denied Social Security Disability benefits because there is a great deal of evidence to show that I am disabled.

Although it is plain from this statement that petitioner seeks to challenge a decision by the Commissioner of Social Security denying his application for social security benefits, it is unclear when that decision was made. Because it is possible that petitioner has filed multiple applications for social security benefits, it is necessary for petitioner to provide the date of the decision that he is challenging so that the commissioner can respond to the complaint. Accordingly, before petitioner may proceed on his complaint, he must identify specifically the administrative decision that he is challenging. The best way for petitioner to do this is to submit a copy of the administrative law judge's decision or a copy of a letter from the Appeals Council authorizing him to file a federal action. Alternatively, petitioner may submit a letter stating the date on which the final decision in his case was issued. Upon receipt of that information, the court will deem it to be an amendment to the complaint and will allow plaintiff to proceed *in forma pauperis*.

#### ORDER

The petition of Gary Edgar for permission to proceed *in forma pauperis* is GRANTED on the condition that, not later than May 15, 2009, petitioner submits information to the court identifying the administrative decision that he is challenging.

Entered this 30<sup>th</sup> day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge